

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CRANSTON L. ERBY,	)	
	)	
Plaintiff,	)	Civil Action No. 04 - 215
	)	
v.	)	Judge Terrence McVerry
	)	Magistrate Judge Lisa Pupo Lenihan
LEONARD P. BENNING, et al.,	)	
	)	
Defendants.	)	
	)	

**ORDER**

The above captioned case began with the filing of a petition to proceed in forma pauperis on February 13, 2004, and the matter was referred to United States Magistrate Amy Hay for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. The complaint was filed on March 10, 2004, and this case was thereafter transferred to Magistrate Judge Lisa Pupo Lenihan on April 13, 2004.

The Magistrate Judge's Report and Recommendation (Doc. No. 40), filed on August 23, 2005, recommended that the Motion to Dismiss filed by defendants (Doc. No. 27) be granted; that the Motion to substitute a party filed by plaintiff (Doc. No. 34) be denied; and that the Motion to Stay and to disqualify opposing counsel filed by plaintiff (Doc. No. 35) be denied. The Plaintiff was served at SCI Waymart, P.O. Box 256, Waymart, PA 18472, and on counsel for the Defendants. The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. Plaintiff filed objections on September 6, 2005 (Doc. No. 41). After review of the pleadings and documents in the case,

together with the report and recommendation and the objections filed by plaintiff, the following order is entered:

**AND NOW**, this 23rd day of September, 2005;

**IT IS HEREBY ORDERED** that the Motion to Dismiss filed by defendants (Doc. No. 27) is GRANTED; the Motion to substitute a party filed by plaintiff (Doc. No. 34) is DENIED; and that the Motion to Stay and to disqualify opposing counsel filed by plaintiff (Doc. No. 35) is DENIED.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 40) of Magistrate Judge Lenihan, dated June 13, 2005, is adopted as the opinion of the court.

Dated: 09/23/05

BY THE COURT:

s/Terrence F. McVerry  
United States District Judge

cc: Lisa Pupo Lenihan,  
United States Magistrate Judge

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